

104TH CONGRESS
1ST SESSION

H. R. 1917

To amend the Federal Water Pollution Control Act to provide special funding to States for implementation of national estuary conservation and management plans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 1995

Mrs. LOWEY (for herself, Ms. DELAURO, Mr. GEJDENSON, Mrs. KENNELLY, Mr. BONIOR, Mr. SMITH of New Jersey, Mr. STUDDS, Mr. YATES, Mr. MILLER of California, Mr. FRANK of Massachusetts, Mr. ACKERMAN, Mr. ENGEL, Mr. MANTON, Mr. SERRANO, Ms. ESHOO, Mr. FILNER, Ms. PELOSI, Ms. WOOLSEY, Ms. FURSE, Mr. REED, Mr. TORRES, Ms. HARMAN, Ms. NORTON, Mr. PALLONE, Mr. McDERMOTT, Ms. LOFGREN, Mr. TOWNS, Mr. WAXMAN, Ms. WATERS, Mr. DICKS, Mr. VENTO, Mr. WYNN, Mr. GONZALEZ, Ms. VELÁZQUEZ, Mr. JOHNSTON of Florida, Mr. MARTINEZ, Mr. MARKEY, Mr. BERMAN, Mr. HINCHEY, Mr. CONYERS, Mr. ROMERO-BARCELÓ, and Mr. FALEOMAVAEAGA) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend the Federal Water Pollution Control Act to provide special funding to States for implementation of national estuary conservation and management plans, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “DeLauro-Lowey Water
3 Pollution Control and Estuary Restoration Act”.

4 **SEC. 2. FINDINGS AND PURPOSES.**

5 (a) FINDINGS.—The Congress finds the following:

6 (1) The Nation’s estuaries are a vital natural
7 resource to which many regional economies are
8 closely tied.

9 (2) Many of the Nation’s estuaries are under a
10 severe threat from point source pollution and pol-
11 luted run-off (nonpoint source pollution) and from
12 habitat alteration and destruction.

13 (3) Only through expanded investments in
14 waste water treatment and other water and sediment
15 pollution control and prevention efforts can the envi-
16 ronmental and economic values of the Nation’s estu-
17 aries be restored and protected.

18 (4) The National Estuary Program created
19 under the Federal Water Pollution Control Act has
20 significantly advanced the Nation’s understanding of
21 the declining condition of the Nation’s estuaries.

22 (5) The National Estuary Program has also
23 provided precise information about the corrective
24 and preventative measures required to reverse the
25 degradation of water and sediment quality and to

1 halt the alteration and destruction of vital habitat in
2 the Nation's estuaries.

3 (6) The level of funding available to States, mu-
4 nicipalities, and the Environmental Protection Agen-
5 cy for implementation of approved conservation and
6 management plans is inadequate, and additional fi-
7 nancial resources must be provided.

8 (7) Funding for implementation of approved
9 conservation and management plans should be pro-
10 vided under the State revolving loan fund program
11 authorized by title VI of the Federal Water Pollu-
12 tion Control Act.

13 (8) Authorization levels for State revolving loan
14 fund capitalization grants should be increased by an
15 amount necessary to ensure the achievement of the
16 goals of the Federal Water Pollution Control Act.

17 (b) PURPOSES.—The purposes of this Act are—

18 (1) to expand and strengthen efforts to combat
19 the serious and growing water and sediment quality
20 problems in estuaries of national significance identi-
21 fied under the Federal Water Pollution Control Act;

22 (2) to provide significant levels of Federal as-
23 sistance to States and municipalities seeking to im-
24 plement comprehensive conservation and manage-
25 ment plans for those estuaries;

1 (3) to reauthorize section 320 of the Federal
2 Water Pollution Control Act in order to improve the
3 development and implementation of comprehensive
4 conservation and management plans for those estu-
5 aries; and

6 (4) to extend and increase Federal support for
7 the State water pollution control revolving fund pro-
8 gram in order to address various water and sediment
9 quality problems in the waters of the United States.

10 **SEC. 3. EXTENSION OF WATER POLLUTION CONTROL RE-**
11 **VOLVING LOAN FUND PROGRAM.**

12 (a) ALLOTMENT FORMULA.—Section 604(a) of the
13 Federal Water Pollution Control Act (33 U.S.C. 1383(a))
14 is amended—

15 (1) by striking “Sums authorized” and insert-
16 ing “Except as provided in section 608, sums au-
17 thorized”; and

18 (2) by striking “and 1990” and inserting
19 “through 2002”.

20 (b) FUNDING.—Section 607 of such Act (33 U.S.C.
21 1387) is amended by striking “the following sums:” and
22 all that follows through the end of the section and insert-
23 ing the following: “\$4,000,000,000 for each of the fiscal
24 years 1996 and 1997, and \$5,000,000,000 for each of the
25 fiscal years 1998, 1999, 2000, 2001, and 2002.”.

1 **SEC. 4. FUNDING FOR IMPLEMENTATION OF ESTUARY CON-**
 2 **SERVATION AND MANAGEMENT PLANS.**

3 Title VI of the Federal Water Pollution Control Act
 4 (33 U.S.C. 1381 et seq.) is amended by adding at the end
 5 the following:

6 **“SEC. 608. CAPITALIZATION GRANTS TO STATES FOR IM-**
 7 **PLEMENTING ESTUARY CONSERVATION AND**
 8 **MANAGEMENT PLANS.**

9 “(a) SET-ASIDE FOR IMPLEMENTING APPROVED
 10 PLANS.—

11 “(1) SET-ASIDE.—

12 “(A) IN GENERAL.—Of amounts appro-
 13 priated under the authority of section 607 for
 14 each fiscal year, the applicable percentage
 15 under subparagraph (B) shall be used by the
 16 Administrator to make capitalization grants
 17 under this title to qualified States.

18 “(B) PERCENTAGE.—For purposes of sub-
 19 section (A), the applicable percentage is—

20 “(i) 2.5 percent for fiscal year 1996;

21 “(ii) 5 percent for fiscal year 1997;

22 “(iii) 7.5 percent for fiscal year 1998;

23 “(iv) 10 percent for fiscal year 1999;

24 “(v) 12.5 percent for fiscal year 2000;

25 “(vi) 15 percent for fiscal year 2001;

26 and

1 “(vii) 15 percent for fiscal year 2002.

2 “(2) ALLOCATION.—Of amounts required under
3 paragraph (1) to be used for grants to qualified
4 States for a fiscal year, the Administrator shall allo-
5 cate to each qualified State an amount equal to—

6 “(A) the total amounts required under
7 paragraph (1) to be used for such grants for
8 that fiscal year, multiplied by

9 “(B) the percentage specified by the Ad-
10 ministrator for the fiscal year for that State
11 under paragraph (3)(B).

12 “(3) DETERMINATION OF STATE NEEDS.—Not
13 later than 120 days after the date on which all
14 qualified States have submitted under paragraph
15 (4)(A) estimates of the needs of the States for finan-
16 cial assistance for a fiscal year, the Administrator
17 shall—

18 “(A) determine the needs of each qualified
19 State for financing implementation of approved
20 estuary plans in the fiscal year, based on—

21 “(i) the Administrator’s ranking of
22 each project or activity included in all the
23 needs estimates submitted, according to
24 the severity of the pollution problem each
25 project or activity will address; and

1 “(ii) the Administrator’s determina-
2 tion of which projects or activities should
3 be included in the approved estimate of
4 needs for each qualifying State; and

5 “(B) submit to the Congress a report de-
6 scribing the cost of each project or activity in-
7 cluded in each approved estimate of needs for
8 each State, the total for all qualified States,
9 and a percentage for purposes of paragraph
10 (2)(B) representing such approved needs of the
11 qualified State relative to such approved needs
12 of all qualified States.

13 “(4) STATE ESTIMATE OF NEEDS.—

14 “(A) SUBMISSION.—Not later than July 1
15 of each year, each qualified State shall submit
16 to the Administrator an estimate of the needs
17 of the State for financial assistance for imple-
18 menting, monitoring, and enforcing approved
19 estuary plans in the next fiscal year. Such esti-
20 mates shall include a description of each project
21 and activity for which funding is being sought,
22 the entity which would receive the funding, the
23 need for the project or activity, and its cost.
24 Such estimates may be included in a qualified
25 State’s intended use plan under section 606(c),

1 and shall maximize economical planning, de-
2 sign, and construction.

3 “(B) CONSULTATION.—In preparing an es-
4 timate of needs under this paragraph, a quali-
5 fied State shall consult with each management
6 conference under section 320 that is implement-
7 ing an approved estuary plan and of which the
8 State is a member.

9 “(C) APPROVAL REQUIRED.—A qualified
10 State may not submit an estimate of needs
11 under this paragraph unless the estimate is ap-
12 proved by each management conference under
13 section 320 that is implementing an approved
14 estuary plan and of which the State is a mem-
15 ber.

16 “(5) FAILURE TO SUBMIT ESTIMATE.—A quali-
17 fied State which does not submit an estimate for a
18 fiscal year in accordance with paragraph (4) shall
19 not be eligible for any allocation under paragraph
20 (2) for that fiscal year.

21 “(b) SEPARATE ACCOUNT.—

22 “(1) ESTABLISHMENT OF ACCOUNT.—A quali-
23 fied State shall establish a separate account in its
24 water pollution control revolving fund established
25 under this title, which shall be known as an ‘Estuary

1 Account'. Amounts of grants to a qualified State
2 under subsection (a) shall be deposited into the
3 Estuary Account established by the State.

4 “(2) USE.—A qualified State may use amounts
5 in its Estuary Account only for providing assistance
6 for the purpose of implementing approved estuary
7 plans that apply to the State.

8 “(c) TYPES OF ASSISTANCE.—

9 “(1) IN GENERAL.—Except as otherwise pro-
10 vided by State law and subject to paragraph (2),
11 amounts in the Estuary Account of a qualified State
12 may be used only for providing the types of assist-
13 ance described in section 603(d).

14 “(2) SPECIAL RULES.—

15 “(A) EXTENDED AMORTIZATION PE-
16 RIOD.—Notwithstanding section 603(d)(1)(A),
17 a loan made by a qualified State with amounts
18 in the Estuary Account of the State may be for
19 a term of not to exceed 40 years or the useful
20 life of any facility constructed with the loan,
21 whichever is less, if the borrower demonstrates
22 to the State that the borrower is experiencing
23 financial hardship.

24 “(B) PRINCIPAL SUBSIDIES.—In addition
25 to the types of assistance authorized by section

1 603(d), a qualified State may use amounts of
2 interest earned on amounts in its Estuary Ac-
3 count to subsidize up to 90 percent of the prin-
4 cipal portion of the amount of debt service of
5 an entity referred to in section 603(c)(1) that,
6 notwithstanding the availability of interest free
7 loans under section 603(d)(1)(A) and extended
8 amortization under subparagraph (A), the State
9 determines is financially unable to carry out a
10 project that is necessary for the implementation
11 of an approved estuary plan.

12 “(d) STATE MATCHING.—Notwithstanding section
13 602(b)(2), a qualified State shall deposit into its Estuary
14 Account an amount from State funds equal to at least 15
15 percent of amounts deposited into the account in the form
16 of capitalization grants to the State under this section.

17 “(e) DEFINITIONS.—In this section, the following
18 definitions apply:

19 “(1) APPROVED ESTUARY PLAN.—The term
20 ‘approved estuary plan’ means a comprehensive con-
21 servation and management plan approved by the
22 Administrator under section 320(h).

23 “(2) ESTUARY ACCOUNT.—The term ‘Estuary
24 Account’ means a separate account established by a

1 qualified State under subsection (b) in its water pol-
 2 lution control revolving fund.

3 “(3) QUALIFIED STATE.—The term ‘qualified
 4 State’ means a State that—

5 “(A) is subject to an approved estuary
 6 plan;

7 “(B) has established an estuary account in
 8 accordance with subsection (b); and

9 “(C) has fulfilled its responsibilities under
 10 section 320 with respect to each management
 11 conference under that section of which it is a
 12 member.”.

13 **SEC. 5. DISCRETIONARY GRANTS FOR IMPLEMENTATION**
 14 **OF ESTUARY CONSERVATION AND MANAGE-**
 15 **MENT PLANS.**

16 (a) IN GENERAL.—Section 320 of the Federal Water
 17 Pollution Control Act (33 U.S.C. 1330) is amended by re-
 18 designating subsection (k) as subsection (l) and by insert-
 19 ing after subsection (j) the following new subsection:

20 “(k) GRANTS FOR IMPLEMENTATION OF CONSERVA-
 21 TION AND MANAGEMENT PLANS.—

22 “(1) IN GENERAL.—The Administrator shall
 23 make grants to State, interstate, and regional water
 24 pollution control agencies and entities, State coastal
 25 zone management agencies, interstate agencies,

1 other public or nonprofit agencies, institutions, orga-
2 nizations, Indian tribes, and individuals for imple-
3 mentation of conservation and management plans
4 approved under this section.

5 “(2) PURPOSES.—Grants under this subsection,
6 shall be made to assist in aspects of implementation
7 of such plans which involve innovative technology,
8 research and development, education, pollution pre-
9 vention, comprehensive land use planning, and other
10 activities not generally funded by the State under
11 this title.

12 “(3) FEDERAL SHARE.—The amount of grants
13 to any person (including a State, interstate, or re-
14 gional agency or entity) under this subsection for a
15 fiscal year shall not exceed 75 percent of the cost of
16 implementation of such plans.

17 “(4) AUTHORIZATION OF APPROPRIATIONS.—
18 There is authorized to be appropriated to the Ad-
19 ministrator to carry out this subsection not to ex-
20 ceed \$50,000,000 per fiscal year for each of fiscal
21 years 1996 through 2002.”.

22 (b) FUNDING FOR INTERIM ACTIONS.—Section
23 320(g)(2) of such Act (33 U.S.C. 1330(g)(2)) is amended
24 by inserting before the period the following: “, and for ap-
25 propriate interim actions that are adopted by the manage-

1 ment conference and approved in accordance with sub-
 2 section (h) to protect the water and sediment quality of
 3 the estuary that is the subject of such a plan”.

4 (c) GRANT REPORTING.—Section 320(h) of such Act
 5 (33 U.S.C. 1330(h)) is amended by striking “subsection
 6 (g)” and inserting “subsection (i) and that receives a
 7 grant under subsection (m)”.

8 (d) CONFORMING AMENDMENT.—Section 320(g) of
 9 such Act (33 U.S.C. 1330(g)) is amended by inserting
 10 “DEVELOPMENT” before “GRANTS.—”.

11 **SEC. 6. EXTENSION OF CONSERVATION AND MANAGEMENT**

12 **PLAN DEVELOPMENT GRANT PROGRAM.**

13 Section 320(i) of the Federal Water Pollution Control
 14 Act (33 U.S.C. 1330(i)) is amended—

15 (1) by inserting “and \$28,000,000 per fiscal
 16 year for each of fiscal years 1992 through 2002”
 17 after “and 1991”; and

18 (2) by inserting “for fiscal years 1987 through
 19 1991, and \$8,000,000 per fiscal year of the sums
 20 authorized to be appropriated under this subsection
 21 for fiscal years 1992 through 2002,” before “to the
 22 Administrator of the National”.

1 **SEC. 7. NATIONAL ESTUARY PROGRAM IMPROVEMENT.**

2 (a) MANAGEMENT PLANS.—Section 320(b) of the
3 Federal Water Pollution Control Act (33 U.S.C. 1330(b))
4 is amended—

5 (1) by striking the matter preceding paragraph
6 (1) and inserting the following:

7 “(b) PURPOSES OF CONFERENCE.—The purpose of
8 any management conference convened with respect to an
9 estuary under this section shall be to ensure, through a
10 comprehensive planning process, full coordination and full
11 implementation of the requirements of sections 303,
12 304(l), 305(b), 319, 402, and 404 of this Act and the
13 Coastal Zone Management Act of 1972, and to identify,
14 plan, and ensure implementation of additional measures
15 necessary to achieve compliance with water quality stand-
16 ards and to protect existing and designated uses of coastal
17 waters and the integrity of aquatic habitat. To achieve
18 these purposes a management conference shall—”;

19 (2) by redesignating paragraphs (1), (2), (3),
20 (4), (5), (6), and (7) as paragraphs (2), (3), (4),
21 (6), (8), (10), and (11), respectively;

22 (3) by inserting before paragraph (2), as so re-
23 designated, the following new paragraph:

24 “(1) conduct within 1 year after the convening
25 of the conference a literature survey to identify ex-

1 isting information on the environmental health of
2 the estuary;”;

3 (4) by inserting after paragraph (4), as so re-
4 designated, the following:

5 “(5) identify within 3 years after the convening
6 of the conference the major environmental problems
7 and priorities that the comprehensive conservation
8 and management plan will address;”;

9 (5) in paragraph (6), as so redesignated, by in-
10 serting “, within 5 years after the date on which the
11 management conference is convened and in accord-
12 ance with the applicable guidance document pub-
13 lished under subsection (e),” after “plan”;

14 (6) in paragraph (6), as so redesignated, by in-
15 serting “(including policies enforceable under State
16 law)” after “actions”;

17 (7) by inserting after paragraph (6), as so re-
18 designated, the following:

19 “(7) submit to the Administrator in the first
20 year following the convening of the conference, an
21 initial 5-year budget for the development of the con-
22 servation and management plan, and revise such
23 budget on an annual basis;”;

24 (8) by inserting after paragraph (8), as so re-
25 designated, the following:

1 “(9) conduct an analysis, within 3 years after
2 the convening of the conference, of any changes to
3 State statutory authority that will be required to im-
4 plement the conservation and management plan and,
5 provided such changes are more protective of aquatic
6 resources than the previous law, publish a citation to
7 such statutory authority and the proposed changes
8 (and a plain language description and summary) in
9 the conservation and management plan proposed for
10 approval under subsection (h), and update such
11 analysis and publication on an annual basis there-
12 after;”;

13 (9) in paragraph (10), as so redesignated, by
14 striking “and” after the semicolon;

15 (10) in paragraph (11), as so redesignated, by
16 striking the period and inserting a semicolon;

17 (11) by inserting after paragraph (11), as so
18 redesignated, the following:

19 “(12) identify all Federal activities (including
20 development projects, financial assistance programs,
21 and licensing and permitting activities) that may af-
22 fect the requirements and objectives of the conserva-
23 tion and management plan developed under this sec-
24 tion, ensure the coordinated implementation of the
25 plan with respect to those activities, and ensure that

1 the plan is at a minimum consistent with all Federal
2 licensing and permitting requirements of this Act
3 and other Federal laws or provides for greater pro-
4 tection of the integrity of natural aquatic habitat or
5 water or sediment quality;

6 “(13) identify all pollutants and water bodies
7 for which development of maximum daily loads are
8 necessary pursuant to section 303, and establish a
9 schedule whereby all such total maximum daily loads
10 and wasteload and load allocations shall be com-
11 pleted within 5 years of approval of a conservation
12 and management plan pursuant to this section;

13 “(14) ensure that all permits issued under sec-
14 tion 402 are current for significant dischargers with-
15 in an estuary that is subject to a conservation and
16 management plan, and ensure that, if multiple dis-
17 chargers affect a single segment of such estuary, the
18 dischargers are placed on simultaneous permit issu-
19 ance schedules to allow for efficient wasteload alloca-
20 tion;

21 “(15) ensure that if an estuary subject to a
22 conservation and management plan is affected by
23 combined sewer overflows, development and imple-
24 mentation of a combined sewer overflow abatement

1 plan is included in the conservation and manage-
 2 ment plan; and

3 “(16) identify portions of the conservation and
 4 management plan developed under this section which
 5 should be included in a State coastal zone manage-
 6 ment program approved under section 306(c) of the
 7 Coastal Zone Management Act of 1972 and make
 8 appropriate recommendations to the Governor and
 9 the Under Secretary for that inclusion.”; and

10 (12) in the matter following paragraph (16) (as
 11 such paragraph is added by this subsection) by
 12 striking “paragraph (7)” and inserting “paragraph
 13 (11)”.

14 (b) FISHERIES AND WILDLIFE.—

15 (1) MEMBERS OF CONFERENCE.—Section
 16 320(c) of the Federal Water Pollution Control Act
 17 (33 U.S.C. 1330(c)) is amended—

18 (A) in paragraph (3) by inserting “includ-
 19 ing those Federal agencies with responsibility
 20 for conserving and protecting living resources
 21 including fish, shellfish, and wildlife,” after
 22 “Federal agency,”; and

23 (B) in paragraph (5) by inserting “includ-
 24 ing the agricultural industry,” after “indus-
 25 tries,”.

1 (2) RESEARCH.—Section 320(j)(2) of the Fed-
 2 eral Water Pollution Control Act (33 U.S.C.
 3 1330(j)(2)) is amended by inserting “and the Direc-
 4 tor of the United States Fish and Wildlife Service”
 5 after “Administration”.

6 (c) PARTICIPATION OF MUNICIPALITIES.—Section
 7 320(c)(4) of the Federal Water Pollution Control Act (33
 8 U.S.C. 1330(c)(4)) is amended by striking “local govern-
 9 ments” and inserting “municipalities”.

10 (d) PARTICIPATION OF ENVIRONMENTAL ORGANIZA-
 11 TIONS.—Section 320(c)(5) of the Federal Water Pollution
 12 Control Act (33 U.S.C. 1330(c)(5)) is amended by insert-
 13 ing “, including environmental organizations” after “the
 14 general public”.

15 (e) DUTIES OF MEMBERS OF CONFERENCE.—Sec-
 16 tion 320 of the Federal Water Pollution Control Act (33
 17 U.S.C. 1330) is amended—

18 (1) by redesignating subsections (d), (e), (f),
 19 (g), (h), (i), (j), (k), and (l) as subsections (f), (g),
 20 (h), (i), (j), (k), (l), (m), and (n), respectively; and

21 (2) by inserting after subsection (c) the follow-
 22 ing:

23 “(d) DUTIES OF MEMBERS.—

24 “(1) ADMINISTRATOR.—

1 “(A) IN GENERAL.—The Administrator
2 shall provide necessary levels of funding and
3 staff resources to carry out the functions of the
4 Administrator related to the development, ap-
5 proval, implementation, and monitoring of a
6 conservation and management plan under this
7 section and of approved interim measures.

8 “(B) ANALYSIS OF FEDERAL NEEDS.—Not
9 later than 120 days after the date of the enact-
10 ment of this subparagraph, the Comptroller
11 General of the United States shall submit to
12 the Congress and to the Administrator an anal-
13 ysis of the needs of the Environmental Protec-
14 tion Agency for additional personnel and ad-
15 ministrative resources necessary to fully carry
16 out its duties under this section. Such analysis
17 shall include recommendations regarding nec-
18 essary additional authorizations and appropria-
19 tions.

20 “(C) POLICY AND TECHNICAL LIAISON.—
21 The Administrator or his or her designee shall,
22 among other functions performed with respect
23 to management conferences, serve as policy and
24 technical liaison for all participants in manage-
25 ment conferences.

1 “(2) UNDER SECRETARY.—The Under Sec-
2 retary of Commerce for Oceans and Atmosphere
3 shall provide the necessary levels of funding and
4 staff resources to carry out the functions of the
5 Under Secretary under this section, and shall coordi-
6 nate the activities of the Under Secretary with each
7 management conference convened under this section.

8 “(e) GUIDANCE DOCUMENT.—

9 “(1) IN GENERAL.—Not later than 9 months
10 after the date of the enactment of this paragraph,
11 the Administrator shall issue a guidance document
12 which establishes requirements for—

13 “(A) management conferences to follow in
14 developing, implementing, and monitoring con-
15 servation and management plans, including re-
16 quirements to ensure that—

17 “(i) the plan addresses each existing
18 or foreseeable material impairment of the
19 chemical, physical, and biological integrity
20 of the estuary’s waters;

21 “(ii) the plan authorizes the Adminis-
22 trator to delete proposed actions from the
23 plan;

1 “(iii) the plan ranks each proposed
2 action included in the plan for funding
3 purposes in order of priority; and

4 “(iv) no person with a conflict of in-
5 terest in relation to the intent of this sec-
6 tion shall have the power, singly or in com-
7 bination, to prevent the inclusion of any
8 proposed action in the plan; and

9 “(B) the Administrator to follow in ap-
10 proving implementation strategies within the
11 conservation and management plan and in ap-
12 proving interim actions to protect the water
13 quality of the estuary for which a conservation
14 and management plan is developed.

15 “(2) PUBLICATION OF PROPOSED DOCU-
16 MENT.—The Administrator shall publish a proposed
17 guidance document under this subsection by not
18 later than 6 months after the date of the enactment
19 of this paragraph. Notwithstanding section
20 553(a)(2) of title 5, United States Code, the Admin-
21 istrator shall provide at least 30 days advance notice
22 of the proposed adoption of a guidance document
23 under this subsection and comply in all other re-
24 spects with section 553(b), (c), and (e) of such title
25 with respect to the guidance document. The guid-

1 ance document shall be deemed to be a substantive
2 rule of general applicability for purposes of section
3 552(a)(1)(D) of such title.”.

4 (f) MANAGEMENT CONFERENCES.—Section 320(g)
5 of the Federal Water Pollution Control Act, as redesign-
6 nated by subsection (c)(1) of this section, is amended to
7 read as follows:

8 “(g) PERIOD OF CONFERENCES.—

9 “(1) IN GENERAL.—A management conference
10 convened under this section shall be convened for a
11 period of at least 5 years. Upon approval of a plan
12 under subsection (h), the Administrator may, for
13 purposes of monitoring or implementing the plan,
14 extend a conference for an additional 5 years if the
15 affected Governor or Governors concur in the exten-
16 sion and the extension is necessary to meet the re-
17 quirements of this section and section 608.

18 “(2) TERMINATION OF CONFERENCES.—Upon
19 the application of any resident of a State located in
20 whole or in part in the estuarine zone of the estuary
21 for which the conference was convened, or any af-
22 fected person, or on the Administrator’s own initia-
23 tive, the Administrator shall terminate a manage-
24 ment conference whenever—

1 “(A) the management conference has failed
2 to perform any of the duties prescribed in sub-
3 section (b);

4 “(B) the management conference is un-
5 likely to achieve the purposes specified in sub-
6 section (b);

7 “(C) the management conference has de-
8 layed or interfered with the enforcement or im-
9 plementation of any provision of this Act; or

10 “(D) termination of the management con-
11 ference would promote the restoration and
12 maintenance of the chemical, physical, and bio-
13 logical integrity of the estuary, including the
14 factors specified in subsection (b)(6).”.

15 (g) APPROVAL AND IMPLEMENTATION OF CONSERVA-
16 TION AND MANAGEMENT PLANS; PUBLIC REVIEW AND
17 COMMENT.—Section 320(h) of the Federal Water Pollu-
18 tion Control Act, as redesignated by subsection (c)(1) of
19 this section, is amended to read as follows:

20 “(h) APPROVAL AND IMPLEMENTATION OF PLANS
21 AND INTERIM ACTIONS.—

22 “(1) APPROVAL OF PLANS.—Not later than 120
23 days after the date of the completion of a conserva-
24 tion and management plan and after providing for

1 public review and comment, the Administrator shall
2 approve such plan if—

3 “(A) it complies with the applicable guid-
4 ance document published under subsection (c);

5 “(B) it meets the requirements of this sec-
6 tion;

7 “(C) it specifies the implementation re-
8 sponsibilities, including funding responsibilities
9 and implementation schedules, of the Federal
10 Government and of State and local governments
11 that participated in the development of the
12 plan;

13 “(D) the affected Governor or Governors
14 concur;

15 “(E) the affected Governor or Governors
16 certify that they have the authority to under-
17 take the actions called for in the plan; and

18 “(F) the Administrator determines that
19 each action called for in the plan is necessary
20 to protect, restore, and maintain the chemical,
21 physical, and biological integrity of the Nation’s
22 waters, is cost-effective, and will not alter or de-
23 stroy aquatic habitat.

24 “(2) APPROVAL OF INTERIM ACTIONS.—The
25 Administrator shall approve an interim action to

1 protect the water quality of an estuary for which a
2 conservation and management plan is being devel-
3 oped if the action meets the requirements set forth
4 in paragraph (1) (A) through (D).

5 “(3) PUBLIC REVIEW AND COMMENT.—The Ad-
6 ministrator shall, before approving a conservation
7 and management plan, publish in the Federal Reg-
8 ister a draft of the plan and provide an opportunity
9 for public review and comment on the plan pursuant
10 to section 553 (b) through (e) of title 5, United
11 States Code.

12 “(4) IMPLEMENTATION.—Upon approval of a
13 conservation and management plan or an interim ac-
14 tion under this section, such plan or action shall be
15 implemented. The Administrator, as a nondiscretion-
16 ary duty, shall ensure that the Federal responsibil-
17 ities and commitments under the plan or action are
18 complied with and implemented in accordance with
19 the guidance document. The Administrator shall—

20 “(A) provide assistance to the management
21 conference, including administrative and tech-
22 nical assistance, for monitoring implementation
23 of the plan or interim action;

1 “(B) coordinate Federal programs nec-
2 essary for implementing the plan or interim
3 action;

4 “(C) make recommendations to the man-
5 agement conference on enforcement and tech-
6 nical assistance activities necessary to ensure
7 compliance with and implementation of the plan
8 or interim action;

9 “(D) collect and make available to the pub-
10 lic, publications and other forms of information
11 relating to implementation of the plan or in-
12 terim action; and

13 “(E) make grants under the authority pro-
14 vided by this title.

15 “(5) FUNDING.—Funds authorized to be appro-
16 priated under titles II and VI, section 319, and this
17 section may be used in accordance with the applica-
18 ble requirements of this Act to assist States with the
19 implementation of such conservation and manage-
20 ment plans. Funds authorized to be appropriated
21 under section 319 and this section may also be used
22 in accordance with the applicable requirements of
23 this Act to assist States with the implementation of
24 such interim actions.

1 “(6) CONSISTENCY.—Upon approval of a con-
2 servation and management plan or interim action
3 under this section, each Federal agency activity
4 identified pursuant to subsection (b)(10) with re-
5 spect to such plan or interim action shall be con-
6 ducted in a manner which is consistent with the en-
7 forceable requirement of the plan or interim action.
8 No Federal financial assistance, project, or activity
9 may be provided or approved that is inconsistent
10 with such plan unless the Administrator, the Assist-
11 ant Director of the United States Fish and Wildlife
12 Service, and the Assistant Administrator of the Na-
13 tional Marine Fisheries Service each determines that
14 such assistance, project, or activity will provide
15 greater protection to the integrity of natural aquatic
16 habitat or water or sediment quality in the estuary
17 than such plan or interim action would otherwise
18 provide, and will not alter or destroy aquatic habitat.
19 Nothing in this section, any conservation or manage-
20 ment plan, or any interim action shall supersede any
21 requirement of this Act or any other Federal law.”.

22 (h) HABITAT PROTECTION.—Section 320 of the Fed-
23 eral Water Pollution Control Act (33 U.S.C. 1330) is
24 amended by adding at the end the following:

1 “(o) HABITAT PROTECTION.—No project or activity
2 that is located in whole or in part in waters of the United
3 States or which in whole or in part serves new develop-
4 ment located in such waters shall be included in a con-
5 servation and management plan or a State estimate of
6 needs under this section unless the Administrator, the Di-
7 rector of the United States Fish and Wildlife Service, and
8 the Assistant Administrator of the National Marine Fish-
9 eries Service each determines that—

10 “(1) the project or activity is essential to reduce
11 the discharge of pollutants into the navigable waters;
12 and

13 “(2) there is no practicable alternative to the
14 proposed project or activity that would have a less
15 adverse impact on existing natural aquatic habitat.”.

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